

MINUTES
REGULAR MEETING OF BOARD OF LAND COMMISSIONERS

August 20, 2007, at 9:00 a.m.
Room 303 State Capitol Building
Helena, Montana

PRESENT: Governor Brian Schweitzer, Superintendent of Public Instruction Linda McCulloch, Attorney General Mike McGrath, State Auditor John Morrison, and Secretary of State Brad Johnson

Ms. McCulloch moved for approval of the minutes from the July 16, 2007, meeting of the Board of Land Commissioners. Seconded by Mr. McGrath. Motion carried unanimously.

BUSINESS CONSIDERED:

807-1 **PRELIMINARY APPROVAL OF MONTANA HERITAGE COMMISSION/TUCKER LAND EXCHANGE**

Tom Schultz, DNRC Trust Land Management Division Administrator, said this is a request for preliminary approval from the Montana Heritage Commission to do a land exchange with the Tuckers. In the 1860s a dancehall was on the site currently owned by Mary Ann Tucker subsequent to that it has been owned by different individuals, and most recently the Montana Heritage Commission. What happened was when the site was developed for housing the lot lines were not accurate. The request is to do a .4 acre land exchange between the Tuckers and the Montana Heritage Commission to correct this error. The value and the acreage are identical. There has been no controversy associated with this and there has been multiple discussions with the Heritage Commission on this. This is strictly a request for preliminary approval. If this is adopted today, there will be a hearing in Virginia City for public comment.

Motion was made by Mr. Johnson to grant preliminary approval of the land exchange. Seconded by Mr. McGrath. Motion carried unanimously.

807-2 **DISCLAIMER OF INTEREST**
Berrum v. Coffman Cause NO. DV-07-86

807-3 **DISCLAIMER OF INTEREST**
Alexandra Rome – Quiet Title Action Pending

Mr. Schultz said these are requests for Disclaimers of Interest along the Yellowstone River near Livingston, Montana. Both are quiet title actions where the state has been asked if it is claiming ownership of the riverbed. In both 807-2 and 807-3, the department has done a thorough investigation and does not feel the state has ownership of those areas. The department is requesting the Board file Disclaimers of Interest in 807-2 and 807-3.

Mr. McGrath moved for approval of 807-2 and 807-3. seconded by Mr. Johnson. Motion carried unanimously.

807-4 **PETERSON CREEK TIMBER SALE**

Mr. Schultz said this sale is approximately eight miles SE of Deer Lodge and has about 450,000 board feet with an estimated value of \$55,000. There is no old growth involved in this proposed sale. We are

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looking at treating primarily 95% lodgepole that has been killed by mountain pine beetle. All the harvest systems will be ground tractor systems. We've addressed the issues and mitigated them as detailed in the briefing before the Board.

Motion was made by Ms. McCulloch to approve the proposed Peterson Creek Timber Sale. Seconded by Mr. Johnson. Motion carried unanimously.

807-5 RIGHTS-OF-WAY APPLICATIONS FOR APPROVAL

Mr. Schultz said this month we bring 73 rights-of-way applications for approval and I'd like to bring the Board's attention to three of them. Section 20 is the section in question in both the first right-of-way and the second right-of-way application. The first one, #13426, is on page 1 to the Rehbergs. This one is for private access road for purpose of conducting normal farming and ranching activities. This is an historic access right-of-way which means this road is already in existence and has been used for some time for ranching purposes. This does not provide residential access. There had been some discussion about where the existing development does occur on the Rehberg Estates. Section 22 is where the existing Rehberg Estates is located. The other right-of-way I wanted to bring to your attention in Section 20 is #13592 on page 2 to the City of Billings. The City of Billings is looking to put a waterline across the state land Section 20, which would perfect access on Section 19 for a reservoir so the pipeline across the state land in Section 20 would be for both water and sewer, a 60-foot right-of-way. The City is trying to plan for future development in that area. The third one I'd like to bring to your attention is the very last one in the package on page 73, #14403 to Beatch Canyon Road Users' Association who is applying for access across state land for a total of 4 acres to be encumbered, a 60-foot right-of-way. The intent of this applicant is to cross the state land to subdivide their private property. This triggers the new access policy the Board previously adopted. Any future land sales in that area where there is a division of land they would pay the 1% conveyance fee to the state. Currently there is no development proposed, but the owner of the land has indicated a desire to do that in the future. The rest of the packet this month contains #14326 through 14348 and #14400 from Fergus Electric Cooperative for overhead electric distribution lines; #14350 through 14370 from Central Montana Communications for buried telephone distribution lines; #14371 and 14372 from Sheridan Electric Cooperative for overhead electric distribution lines; #14373 through 14380 from Richland County for public county roads; #14381 through 14391 from Prairie County for public county roads; #14398 from Bull Mountain Coal Properties for an overhead 161 kV electric transmission line; #14399 from Calvin Webb for a private access road to a single-family residence; #14401 from Southern Montana Telephone Company for buried fiber optic and copper telecommunications cables; and #14402 from Vigilante Electric Cooperative for an overhead electric distribution line.

Motion was made by Mr. McGrath to approve the right-of-way applications. Seconded by Ms. McCulloch.

Governor Schweitzer said if we look at the map and see we have a subdivision on Section 22 and then we have two applications to do something on Section 20 which is one section over, we have a major subdivision on the edge of the largest city in Montana and I don't have much information from the first two applications, the City of Billings and the Rehbergs. The City of Billings wants to put a 16" water line across this section and in addition to that we have a developer who is one section over developing a major subdivision who's just asking for a road for ranching activities. I think it would be incumbent to segregate these two out and consider them separately. We have the City of Billings and a developer who are proposing to do some pretty major activity across what is supposed to be a grazing lease which is less

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than a mile from Billings and less than a mile from a major subdivision. I think we ought to take a look at them.

Mr. McGrath said its fine with me. Mr. McGrath made a new motion to approve the rights-of-way package excluding applications #13426 from Rehberg and #13592 from the City of Billings. Seconded by Mr. Morrison. Motion carried unanimously.

INFORMATIONAL ITEMS

807-6 2007 FIRE SEASON

Mr. Schultz said David Groeschl will provide an overview of the current fire season 2007 as it has affected state lands as well as the acres burnt statewide.

David Groeschl, DNRC Forest Management Bureau Chief, said normally Bob Harrington or Ted Mead would be giving you an update but with all the large project fires in the state now I've been asked to give you an update on where the 2007 fire season is to date. Before the Board are a few handouts, one is the Northern Rockies Coordination Center handout and basically what that shows is the number of fire starts both human caused and lightening caused and the acres associated with that for each protection agency. The protection agency is on the left and with DNRC we have 208 fire starts and it has burned 184,000 acres so far. Statewide we've had 1,500 fire starts and burned 463,000 acres. This is as of Friday, August 17th and these numbers are very fluid, and are changing fairly rapidly. The numbers are expected to go up, we still have two to three weeks left of fire season. The second handout is a summary table and what we tried to do is give an idea of the past fire seasons, historical information. Year 2007 is at the top the 15, 10 and 5 year averages are at the bottom. What this shows is while the number of fires are not necessarily abnormal the size of the acres burned and the average acre of each fire is greater than anything we've seen in the last 15 years. What we're seeing is not necessarily more fire starts but larger fires with the fuel and weather conditions we are experiencing. This year many of the fire behavior analysts on the fires, individuals with 20 – 30 years experience, said they have never seen conditions the way they are right now and the fire behavior they are seeing they have never seen before. So, a very difficult year. Also at the bottom of the handout you can see what the DNRC suppression costs are to date, and again, this is as of August 17th. Our total suppression costs are at \$35.8 million, our responsibility for that is \$21 million and the billable support, meaning that which we should be reimbursed from FEMA, Forest Service and other federal agencies, is about \$14.4 million. There is our total suppression costs as of right now and that is expected to go up. The other handout is a couple of tables. The first table is a summary of acres by ownership for each of the fires. To give you a quick idea what has burned by ownership, and specifically on DNRC trust lands, you can see we broke out trust lands as non-forested and forested. If you look at the total, approximately 3,000 acres of non-forested trust lands has burned, predominantly grazing land, and about 6,800 acres of forested trust lands have burned. We know we have forested lands in the Chippy Creek Fire, the Jocko Lakes Fire, the Black Cat, Tin Cup, potentially on Sawmill, and the Mile Marker 124 Fire. We have several fires where we know we have state trust lands that have burned, many of our foresters are out assisting either on teams in firefighting, they are helping on assessing resource damage and restoration needs, so they are in the process of just doing the initial assessments right now to see what salvage needs we have. Hopefully, by this time in September we will have an initial salvage plan put together to give the Board an idea of what our salvage plans will be. We plan to get in there and get it salvaged as quickly as possible.

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Mr. McGrath said on the totals, the chart that has the 184,000 acres in terms of state land, that is a staggering number in comparison with year 2000 for example. Does that comparison work for all the other fires? If you take the totals, are numbers this year that much higher than 2000 or is it just because of the location of the fires there is more DNRC land involved?

Mr. Groeschl said roughly in the State of Montana our total fires we have as of August 17th is 462,000 acres that have burned and the 184,000 acres represents what is on DNRC protection and not necessarily just on trust lands, that includes private and trust lands that is on DNRC protection. On DNRC trust lands as of Friday, using the latest fire parameters we have almost 10,000 acres that have burned. We expect that that number is going to continue to go up.

Mr. McGrath said my question then is if you take the total acres, 462,000 in 2007 how does that compare to the year 2000?

Mr. Groeschl said I don't have the total numbers in front of me. I'd have to pull that historical data off the NRCC website and look at the total acres across all protection agencies and see how that compares to 2000. In the summary table I just put down what burned on the DNRC protection to give you an idea.

Governor Schweitzer said if my memory serves me we burned about one million acres last year. The big year was 1988, we burned about two million acres with the Yellowstone fires. The problem we have now is this ought to be the first quarter but we've burned through like its already the end of the year. I've been on fires all over the state and its going to take a very large change in the climate to stop these fires and stop the additional ones. The Black Cat fire for example that raged down to Albion from Highway 93 that's a fire that was a lightning strike on July 18th and it smoldered in a tree stump and then exploded on us. We have a lot of that in the high country and not-so-high country that frankly we can't even see because we haven't been able to get visual coverage of these fires. One of the things that struck me, every night on the news there is a discussion of the Brush Fire, the Chippy Creek Fire, the Meriwether Fire, and the Tin Cup Fire and I don't know if the Board knows how these fires are named but typically it is the dispatcher that calls it in that names it. For example, the Roberts Fire in the Kalispell area was named after the father-in-law of the dispatcher. And you probably recall we asked the legislature to move \$25 million into emergency funds so we could fight fires but they didn't. So it might be, and I want you to think about this, I know that stadiums are named for companies all over the country and they raise private money. So if the legislature is not going to put money into these fires perhaps instead of having dispatchers name these fires we ought to sell the rights. Now, you think it is funny but just think this through, it would be some resources. When people buy advertising in a stadium for example, they buy it because when the sports announcer talks about the game they say the name of the company over and over again. I don't know which companies would like to have their name associated with a wildfire but it may be a source of revenue we can bring in and augment what the legislature doesn't put out there for us.

Mr. Morrison said along those lines I was going to ask if you can give us a little more on the adequacy of the resources we have in terms of firefighters, National Guard, and equipment, whether we are short and where we are short. That sort of thing. I have been curious about whether our arsenal we are firefighting with is adequate.

Mr. Groeschl said this has been a challenging fire season to say the least. Right now because of the number of large project fires we have not only in Montana but also in Idaho, when you look at that map and you see some of the fire complexes that are in Idaho as well, between Idaho, Montana, some of the fires that have occurred in Utah, there are a few in Washington and Oregon and also in California, but given the concentration of large fires we've seen in Montana and Idaho particularly this year resources are stretched pretty thin. Particularly ground crews, Type I ground crews are difficult to come by. My

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understanding is most of the Type I teams are assigned right now, all the Type II teams are assigned, and I believe all if not most of the Type III teams are also assigned. As much as possible we are trying to allocate resources as wisely as possible on these fires given the risks that are involved. Just recently we set up an Area Command team in Missoula to coordinate resources among several large fires. That includes the Jocko, the Black Cat, the Sawmill Complex, the Rombo Fire and several other wildfire use areas in the Bitterroot and the Lolo. That Area Command, one of its functions is to help coordinate resources among all of these large project fires so we can keep those resources going and share them appropriately depending upon what the need is on those fires. That has been a structure that has recently been put in place. We are doing the best we can with the resources we have. Its been a long fire season, some of the crews it is taxing on them, we are trying to give them time off and we are pulling in crews from Canada right now, some Type I crews. We've had resources in from other areas of the country to help augment our resources here, but it has been a challenging fire season.

Governor Schweitzer said let me add that we've had a couple hundred members of the National Guard and we've had the National Guard helicopters flying for some time. They've been called up for some period of time. It is unusual when Montana has the #1 fire in the country and we name these things, and when you are called the #1 fire it means you get the resources from the whole Northern Rockies area, which means #1 in the country right now. The Jocko Fire was #1 until we pulled them off and moved them to the Tin Cup Fire, and then the Black Cat made #1. It's a calculation. You hear these things and ask how can the Jocko Fire with 15,000 – 18,000 acres and the Tin Cup which was only 1,000 acres make it to #1. They have a model and that model will take into consideration all the damages that fire might create given the forecast for wind and the number of physical residences in its path. The Jocko Fire was on the verge of burning the Town of Seeley Lake, the Tin Cup Fire was on the verge of burning Darby, and the Black Cat Fire hasn't finished with its attempt to burn Missoula. These are very serious fires and they have been recognized nationwide as the #1 fires. You take the Chippy Creek or the Brush Fire at 9,700 acres, these things change because you can't get in and analyze what has been burned. These fires haven't been elevated because the likelihood of them burning houses and lapping onto a town is minimal. We've got as many resources as we can lay our hands on, public resources, private resources, state, local, federal, volunteer firefighters have done a remarkable job. For an example, the Black Cat Fire. The Alberton Volunteer Fire Department had been helping out in Jocko for weeks, it helped out at the Tin Cup Fire, and when it blew up on Evaro and headed towards Alberton, their resources were back home and the resources that other volunteer firefighters had in the Bitterroot and Seeley, they came to assist. That night it blew up on Evaro Hill and headed towards Alberton it was literally a lot of hard work that 100 houses didn't burn. When you get an opportunity to go down and look at that you'll see dozens and dozens of houses where the fire burned completely around the perimeter of the house and moved on to the next one. We're not of the woods yet. As I recall Eastern Montana's fire season begins even later, it's September when you get out into Eastern Montana when we will get our peak. As I said before, we're only in the first quarter and we've already blown through 460,000 acres. It is a tough season and it is weather related. Last year the fire experts came in to see me in the spring of the year and said its going to be a tough fire year, no snowpack, its very dry and we're starting out dry and the fire season could begin early. This year they came in in March and said its going to be a tough fire year, its been so wet that the understory and brush is so heavy that by the time we get to fire season there will be all this fuel built up. So I think I understand how to forecast a tough fire year, wait until August and see how much burns.

Ms. McCulloch said I was glad David brought up salvage sales because our folks are so speedy at that. I was half expecting you to bring a salvage sale at today's meeting. My question is the A.G. and I were in Whitefish last night for a Montana Meth Project event and we brought rain all the way back with us last night. I am curious, and I know it was lightening in addition, was it enough rain along the Swan Valley to do any help with the fires?

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Mr. Groeschl said the rain we received yesterday basically what it does is gives a temporary reprieve. It allows the firefighters to actually move in closer on the fire and do some direct suppression work on those fire lines. Its not enough typically to knock the fire down substantially. What it will do is hold the fire down for a couple of days with that moisture and the relative humidity levels being higher but when that dries out again, the humidity starts to drop down and temperatures go up, the fires will become active. It gives us a temporary reprieve but its not enough yet. We need a season-ending event where we have a front to come in and sit for two to three days, rain steady, or snow, either one would be the way to have fire season come to an end.

Governor Schweitzer said at the Black Cat Fire the IC had just arrived that day from Utah and I welcomed him to Montana and I told him usually when people come to Montana I encourage them to stay as long as the can, to use their charge card, and to see some of our sights, but in your case Mister, I hope it snows and you go home.

Mr. Morrison said I'd like to add that I am going to follow closely the analysis of the Climate Change Task Force that Governor Schweitzer appointed and I think that as we watch these conditions get worse and change in ways that we've never seen before it's increasingly important that we take a close look at what's happening with climate change. The National Association of Insurance Commissioners that I serve on has a task force on climate change and the largest insurance companies in America and the largest insurance companies in the World, AIG and Marsh is the largest underwriter and broker in America and the largest reinsurers in the world have all begun to articulate without any equivocation that from forest fires to hurricanes to drought to heat waves to floods, there are increasing catastrophic losses all over the western world where insurance does business and the insurance companies are starting to step up to the plate. Which is interesting, not exactly the traditional environmental advocacy community. Part of our stewardship must include taking special note of what's going on and drawing reasonable conclusions about climate change and the connection to the loss of our resources here.

Ms. McCulloch said I want to publicly thank whoever sends out the fire incident reports that come out at 3 o'clock every afternoon, those are really handy to have. Its nice they come out every day and I can watch the Black Cat Fire, I have a house at one end and acreage at the other so its been very helpful.

Motion to adjourn was made by Ms. McCulloch and seconded by Mr. Morrison.